

**REMARKS**

Claims 4, 31, 38, 40, 42 and 56 are canceled. Claims 1-3, 5-30, 32-37, 39, 43-45, 47, 50, 54-55 and 57 are amended. Claims 1-3, 5-30, 32-37, 39, 41, 43-55 and 57 are pending in this application.

**Support for Claim Amendments:**

Claims 1 and 36 are amended. Support for these amendments may be found, for example, in the specification at paragraphs [0038], [0058], [0154], [0173], [0194], [0214], [0227]-[0229], [0241], [0245]-[0246], [0250], [0252], [0273]-[0274], [0284], [0298], [310]-[302], [0317]-[0320] and in Figures 4A-4E.

Claim 5 is amended. Support for these amendments may be found, for example, in the specification at paragraphs [0206] and [0214].

Claim 6 is amended. Support for these amendments may be found for example, in the specification at paragraphs [0174], [0181] and Figure 12.

Claim 8 is amended. Support for these amendments may be found, for example, in the specification at paragraphs [0215], [0219] and Figure 15.

Claim 15 is amended. Support for these amendments may be found, for example, in the specification at paragraphs [0156]-[0160] and Figures 11A-11C.

The other amended claims are amended to reflect changes to their respective independent claims or intervening claims, to correct antecedent basis, to correct grammar, and/or to provide clarity.

No new matter is added with these amendments.

**Claim Rejections Under 35 USC §102**

The Applicants respectfully traverse the rejection of claims 1-3, 5-30, 32-37, 39, 41, 43-55 and 57 under 35 U.S.C. 102(b) as being anticipated by *Tarter et al.*, US Patent

Reply to Office Action of April 1, 2009

Number 5,550,734 (“Tarter”), and respectfully request reconsideration and withdrawal of the rejection in light of the amendments made to the claims.

**Comparison of Tarter and the present application:**

Tarter is generally directed to a computerized method and system for financing health care service providers. Tarter’s Computerized Healthcare Accounts Receivable Management System (“CHARMS”) evaluates a pharmacy’s or health care service provider’s accounts receivables, purchases and securitizes the accounts receivables, collects on the receivables, manages funds, and processes and reconciles claims and payments (Tarter, abstract). Tarter’s CHARMS method and system generally are implemented by a third party that is not the health care service provider or pharmacy itself (Tarter, 10:27-38).

The present application is generally directed to embodiments of a novel method and apparatus for reconciling third party payor receivables with prescription transactions and performing resolution on unreconciled prescription transactions. The novel method and apparatus are generally implemented by a health care service provider such as a pharmacy. The present application discloses significant detail about how claims and payments may be reconciled and how a resolution process may be performed on unreconciled prescription transactions by using a PAR (Pharmacy Accounts Receivable) computer system network of a pharmacy. Tarter does not disclose these details. Tarter is primarily concerned with how to assess a pharmacy’s or health care provider’s accounts receivables for financing and investment purposes, so Tarter appears to merely provide a general description of claim and payment reconciliation by a system external to a pharmacy’s own network, and reserves his detailed description for the assessment of the account receivables as investments. Furthermore, Tarter does not disclose his CHARMS system performing actual resolution activities. The present application claims novel and beneficial elements not found in Tarter, as will be discussed in detail below.

**Claims 1 and 36:**

For example, independent claim 1, as amended, recites, *inter alia*:

performing, at the PAR computer system network, a resolution process for at least one of a failed manual automatic third-

party-deposit-data-to-remittance-advice reconciliation or a failed manual remittance-advice-to-prescription-claim-data reconciliation, the resolution process including:

providing a group of resolution activities including collecting, billing, resolving a billing exception, and resolving a third-party payment, wherein each resolution activity includes building a corresponding resolution activity work queue, displaying at least one resolution activity user-interactive graphical display screen, and updating the PARS data;

identifying one or more unreconciled prescription claims; and

performing at least one selected resolution activity corresponding to the identified one or more unreconciled prescription claims.

Tarter does not disclose performing a resolution process including providing a group of resolution activities that includes collecting, billing, resolving a billing exception, and resolving a third-party payment. The only activity from this group of resolution activities mentioned by Tarter at all is the collection activity, and even then, Tarter's CHARMS does not actually provide and perform the collection activity but merely sends data to a separate collection agency: "CHARMS interfaces with the collection agency's system and transmits information... in addition, CHARMS provides the collection agency... with collection alerts, collection issues, collection management reports... and payment information" (Tarter, 45:42-48). The present application provides benefit over Tarter as collection may be performed locally to the PAR computing system network, thus increasing speed and efficiency. With the present application, messaging and agreements between two independent parties do not need to be executed in order for collection to be performed. Furthermore, the present application also provides other resolution activities such as billing, resolving a billing exception and resolving third-party payments resolution activities, none of which are disclosed by Tarter as being performed by his CHARMS system.

Moreover, not only does Tarter fail to disclose CHARMS providing and performing the collections, billing, resolving a billing exception and resolving third-party payments resolution activities, but Tarter also does not disclose CHARMS including a work queue corresponding to each missing resolution activity, at least one resolution activity user-interactive graphical display screen, and an update to data for each missing resolution activity, as called for by amended claim 1.

Furthermore, Tarter's CHARMS system is not even "a pharmacy accounts receivable (PAR) computer system network of a pharmacy," as called for by claim 1. Tarter, Figures 8-10 and 10:10-38 clearly describe Tarter's CHARMS system as separate and distinct from a pharmacy or service provider, thus Tarter's CHARMS system cannot be construed to be the service provider or pharmacy itself. This difference is significant as Tarter requires a pharmacy to enter into a third-party arrangement with the CHARMS system, whereas the material of the present claims allows a pharmacy to perform reconciliation "in-house" without the burden of contracts, financial payments and testing with a third-party entity such as CHARMS.

For at least these reasons, Applicants respectfully submit that Tarter does not disclose each and every element of amended claim 1, and a *prima facie* case of anticipation cannot be established by Tarter over amended claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §102(b).

Independent claim 36, as amended, recites elements similar to independent claim 1. For at least reasons similar to claim 1, Applicants respectfully submit that Tarter does not disclose each and every element of amended claim 36, and a *prima facie* case of anticipation cannot be established by Tarter over amended claim 36. Accordingly, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §102(b).

#### **Claims 6 and 8:**

Applicants respectfully submit that Tarter does not disclose each and every element of dependent claims 6 and 8. For example, each of claims 6 and 8 depends from independent claim 1, which has been demonstrated to be allowable over Tarter. Dependent claims incorporate by reference each and every element of their respective independent claim, so for at least this reason, claims 6 and 8 are also allowable over Tarter.

Moreover, Applicants respectfully submit that the Office Action has not cited to passages of Tarter that disclose each and every element of claims 6 and 8. For example, with regard to element (a) of claim 6 "displaying a system user-interactive graphic display screen and receiving a user selection of a criteria on which to base a third-party-deposit-to

remittance-advice work queue via the system user-interactive graphic display screen,” the Office Action cited to Tarter 7:1-11 as allegedly disclosing this element. However, Tarter, 7:1-11 does not disclose a user-interactive display screen or a user selection of a criteria on which to base a work queue. Rather, Tarter 7:1-11 merely describes NCPDP-formatted messages and messages between service providers/pharmacies and high volume obligors, TPAs or plan sponsors or other processors (Tarter, 5:57-64 and 5:66 – 6:2). Thus, cited passage Tarter, 7:1-11 does not disclose element (a) of claim 6 “displaying a system user-interactive graphic display screen and receiving a user selection of a criteria on which to base a third-party-deposit-to remittance-advice work queue via the system user-interactive graphic display screen.”

Similarly, with regard to element (b) of claim 6 “building the third-party-deposit-to remittance-advice work queue based on the selected criteria,” cited passage Tarter, 39: 31-45 does not disclose either “the third-party-deposit-to remittance-advice work queue” or “the [user] selected criteria.” In fact, Tarter, 39: 31-45 describes CHARMS’ automatic decision making on whether or not to buy claims (See, for example, “...declining to buy any of the corresponding claims... and... deciding to buy the first claim...” in Tarter, 39:42-45.) Also, the introduction to the cited passage 39:31-45 indicates that the cited passage is automatically performed by CHARMS: “CHARMS conducts buy/decline decision processing...” Thus, cited passage Tarter, 39:31-45 is not based on a user selected criteria, as called for by claim 6, but instead is based on CHARMS’ automatic processing decisions.

Furthermore, with regard to elements (c) and (d) of claim 6 “receiving a user selection of [an item]... displayed on the third-party-deposit-to remittance-advice work queue,” Applicants submit that none of cited passages Tarter 23:66-67, 24: 1-12, and 24: 22-34 disclose this missing clause of the elements (c) and (d). All three of these cited passages pertain to FIG. 17G, Tarter’s “adjustments” screen. Tarter’s adjustments screen shows only a list of adjustments or “monies due the provider by the processor or payor” (Tarter, 23:66-24:1), but not a third-party-deposit-to remittance-advice work queue as called for by claim 6.

Additionally, as Tarter is primarily concerned with automatically securitizing accounts receivables, in all of Tarter, Tarter appears to only describe manual reconciliation in

a general manner without any particular detail of specific steps therein: “Unreconciled items are cleared ...by... a manual update by the System Operator, e.g., a write off” (Tarter, 45:26-29). As required by MPEP 2143.03: “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Thus, this general summary of Tarter’s manual reconciliation procedure does not disclose the details of each and every element of each and every step of claim 6, as all words of claims 6 disclose specific steps and elements not found in Tarter’s general description of manual reconciliation in 45:26-29.

For at least the above additional reasons, Applicants respectfully submit that Tarter does not disclose each and every element of claim 6, and a *prima facie* case of anticipation cannot be established by Tarter for claim 6, as amended. The Office Action used the same above referenced Tarter passages as allegedly disclosing similar elements of claim 8. For at least reasons similar to claim 6, Applicants respectfully submit that a *prima facie* case of anticipation also cannot be established by Tarter for claim 8, as amended. Accordingly, Applicants respectfully request the withdrawal of the rejection of claims 6 and 8 under 35 U.S.C. §102(b).

**Claims 2-3, 5-30, 32-35, 37, 39, 41, 43-55 and 57:**

Dependent claims incorporate by reference each and every element of the independent claim from which they depend and any intervening claims. Applicants respectfully submit that for reasons similar to independent claims 1 and 36, Tarter does not disclose each and every element of claims 2-3, 5-30, 32-35, 37, 39, 41, 43-55 and 57. Accordingly, a *prima facie* case of anticipation cannot be established by Tarter for claims 2-3, 5-30, 32-35, 37, 39, 41, 43-55 and 57, and Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. §102(b).

**CONCLUSION**

In view of the above amendment and arguments, the Applicants submit the pending application is in condition for allowance and an early action so indicating is respectfully requested.

The Commissioner is authorized to charge any fee deficiency required by this paper, or credit any overpayment, to Deposit Account No. 13-2855, under Order No. 29488/38226A from which the undersigned is authorized to draw.

Dated:

Respectfully submitted,

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